

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1738 OF 2023**

**SHRIRAM BABARAO BHAKRE
VERSUS
PRAYAGBAI HANMANTRAO GOPCHHADE AND ANOTHER**

...
Mr. Baliram B. Shinde, Advocate for the Petitioner.

...
**CORAM : SHARMILA U. DESHMUKH, J.
DATED : 17th FEBRUARY, 2023.**

PER COURT:-

1. Heard.
2. By this petition, the challenge is to the order dated 23.12.2022 passed in RCS No.10/2011 rejecting petitioner's application for marking and exhibiting the documents produced below the list of the documents at Exhibit-7 and Exhibit-94.
3. Learned counsel for the petitioner submits that the documents were produced alongwith the list and the Presiding Officer has not exhibited the documents. He would further submit that three witnesses were examined and without exhibiting the documents the evidence was completed. He has invited the attention of this Court to the evidence of the petitioner and in particular paragraph no.4 at page no.38.
4. A perusal of the affidavit of evidence of the petitioner shows that the deposition is in respect of transaction in question. In the deposition the agreement for sale has not been proved. The petitioner/plaintiff has not identified the signature on the documents and there is no deposition as regards contents. As

such, merely because the list has been produced, the documents cannot be marked as exhibit.

5. Learned counsel for the petitioner has not been able to demonstrate from the material on record that the said documents had been proved in accordance with the provisions of the Indian Evidence Act.

6. A perusal of the impugned order shows that the Trial Court after considering the evidence has observed that only deposition is made as regards the alleged agreement for sale, there is no identification of the signatures or handwriting of these documents and as such, has rejected the application.

7. In light of the above, there is no infirmity in the order of the Trial Court rejecting the application.

8. Writ Petition is devoid of merits and stands dismissed.

9. If the application is preferred by the petitioner for leading additional evidence, the Trial Court to consider the same on its own merits and in accordance with law.

(SHARMILA U. DESHMUKH)
JUDGE